



**Office of Water Quality  
Wetland Water Quality Standards and  
401 Certification Implementation Rulemaking**

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**OVERVIEW OF MAJOR CHANGES MADE TO THE DRAFT SECTION 401 WATER  
QUALITY CERTIFICATION RULES SINCE THE AUGUST 6, 2001 MEETING**

1. Amended new language that creates a surface water modification permit program (SWMP)

a. Applicability – Clarified that this rule applies to all dredge, fill, excavation, and mechanical clearing activities in waters of the state where that activity does not require a Section 401 WQC. The requirement to obtain a SWMP does not apply to any activity that occurs in a prior converted wetland as defined in the rule.

b. Created a list of activities that are exempted from SWMP requirements –

(1) Normal farming, silviculture, or ranching activities such as one (1) or more of the following:

- (A) Plowing.
- (B) Seeding.
- (C) Cultivating.
- (D) Minor drainage.
- (E) Harvesting for the production of food, fiber, and forest products.
- (F) Upland soil and water conservation practices.

(2) Maintenance, including emergency reconstruction, of one (1) or more of the following:

- (A) Recently damaged parts.
- (B) Currently serviceable structures such as:
  - (i) dikes;
  - (ii) dams;
  - (iii) levees;
  - (iv) groins;
  - (v) riprap;
  - (vi) breakwaters;
  - (vii) causeways; and
  - (viii) bridge abutments or approaches.

(C) Transportation structures.

(3) Construction or maintenance of farm or stock ponds.

(4) Construction of temporary sedimentation basins on a construction site so long as the following are not conducted within waters of the state:

- (A) Placement of fill material.
- (B) Excavation.

- (C) Mechanical clearing.
- (5) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment if these roads are constructed and maintained in accordance with best management practices to assure the following:
  - (A) Flow and circulation patterns and chemical and biological characteristics of the waters of the state are not impaired.
  - (B) The reach of the waters of the state is not reduced.
  - (C) Any adverse effect on the aquatic environment is minimized.
- c. Added new definitions of the following terms: *prior converted wetland*, *commencement*, *mechanical clearing*, *surface water modification permit*. Corrected the definition of *farmed wetlands*.
- d. Added a “completeness review requirement” for both WQCs and SWMPs –  
  
*The department shall assess an application for its completeness of information within thirty (30) days after receipt. If the department determines that additional information is necessary, including, for example, a compensatory mitigation plan, in order to complete the application review, the department shall promptly notify the applicant in writing and request the additional information that is needed. The application is not considered complete so that review of the application may proceed until the applicant has submitted the information requested under subdivision (2).*
- e. Added authority for IDEM to create SWMP general permits – contains language requiring public notice of a proposal to create a new permit, opportunity for a public hearing, states the length of effectiveness of a general permit, and criteria by which general permits can be proposed.
- f. Compensatory wetland mitigation monitoring – modified this section to require a minimum of 3 years monitoring and a release from further monitoring after a demonstration of 2 consecutive years of success.

## **ADDITIONAL IMPORTANT CHANGES TO THE DRAFT WETLAND WATER QUALITY STANDARDS MADE SINCE FEBRUARY 14, 2001.**

### **1. Definitions**

Modified Tier II wetland definitions to clarify that one or more plant species must be present in order for an area to be considered as a Tier II wetland.

2. Wetland designated uses

Made the following change: Surface and ground water movement that may include ~~maintenance of~~ low water stream flow, ground water discharge, ground water recharge, and peak flow suppression.

3. Minimum water quality criteria for wetlands

Added an exemption for non-anthropogenic sources of E. coli that reads -

*If the source of fecal contamination is shown to be solely from uncontrollable, nonanthropogenic sources, such as wildlife, waterfowl or both, a use attainability analysis may be used to:*

- (1) demonstrate that a wetland's current designated use is not an existing use and is not attainable; and*
- (2) propose a change to the designated use.*